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September 12, 2007

Washington State Energy Facility Site Evaluation Council
Attn: Allen J. Fiksdal, EFSEC Manager
905 Plum Street SE, Building 3
Olympia, WA 98504-3172
allenf@cted.wa.gov

VIA OVERNIGHT DELIVERY

RE: Petition for Intervention for Pacific Mountain Energy Center, Application No. 2006-01

Dear Allen,

Enclosed is the Petition for Intervention for Pacific Mountain Energy Center, Application No. 2006-01, timely filed by Petitioners Columbia Riverkeeper, Willapa Hills Audubon Society, and Rosemere Neighborhood Association. Columbia Riverkeeper will act as the lead party and I will represent each party. Please let me know if I can answer any questions. I will attend the prehearing conference and the oral argument on intervention on September 20, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett VandenHeuvel", written over a horizontal line.

Brett VandenHeuvel
Staff Attorney
Columbia Riverkeeper

cc:

Ted Beatty
Elizabeth Thomas
Michael Tribble

**BEFORE THE STATE OF WASHINGTON ENERGY FACILITY SITE
EVALUATION COUNCIL**

In the Matter of Application No. 2006-01

ENERGY NORTHWEST

PACIFIC MOUNTAIN ENERGY CENTER
POWER PROJECT

**PETITION FOR INTERVENTION BY
COLUMBIA RIVERKEEPER, WILLAPA
HILLS AUBUDON SOCIETY, and
ROSEMERE NEIGHBORHOOD
ASSOCIATION**

I. Identification of Petitioners

Columbia Riverkeeper ("CRK") is Washington non-profit corporation with approximately 1500 members. CRK has offices in Hood River, Oregon and Portland, Oregon. CRK is dedicated to protecting the Columbia River and all life connected to it. CRK has actively participated in the Energy Facility Site Evaluation Council ("EFSEC") hearings and informational meetings for the Pacific Mountain Energy Center ("PMEC"). CRK has presented extensive written and oral comments on PMEC, including comments on the scope of the Environmental Impact Statement, the draft Environmental Impact Statement, local land use compatibility, and compliance with SB 6001.

Willapa Hills Audubon Society ("WHAS") is a Washington non-profit corporation located in Longview, Washington. WHAS has approximately 300 members and is dedicated to supporting ecologically responsible ways of life, maintaining biologically diverse habitats, and promoting environmental understanding. WHAS has attended several EFSEC hearings for PMEC and presented oral and written testimony on land use compatibility and the draft Environmental Impact Statement.

Rosemere Neighborhood Association ("RNA") is a Washington non-profit corporation with approximately 50 members. RNA is an independent membership

organization in Vancouver, Washington, dedicated to the betterment of urban living and the protection of natural resources and the environment. RNA has closely followed the EFSEC hearings for the proposed power plant, and has offered public testimony on this subject through a consortium of environmental advocacy groups.

II. Interests of Petitioners

The industrialization of the lower Columbia River is a major concern and a primary project area for CRK over the last several years. CRK has dedicated thousands of hours working to ensure that energy facilities, such as P MEC, do not harm the water and air quality and habitat of the lower river and estuary. CRK members use and enjoy the Columbia River, tributaries, and lands adjacent to the proposed site of P MEC for commercial, recreational, scientific, and aesthetic reasons. CRK members also live and work near the proposed power plant. The power plant will adversely affect CRK's members' use and enjoyment of the river and adjacent land by harming water quality, air quality, fish and wildlife habitat, wetlands, aquifer recharge, and aesthetics. In addition, the power plant's greenhouse gas discharges will contribute to global warming, which harms the environmental values in the Columbia River basin that CRK protects. CRK also has an interest in ensuring that local, state, and federal laws designed to protect the environment are implemented.

WHAS members use and enjoy the lands and waterways near the proposed P MEC for recreational, scientific, and aesthetic reasons. The proposed power plant will harm the biological diversity of the area, which WHAS seeks to protect, by degrading water quality, filling wetlands, and discharging air pollutants. WHAS's goal of supporting ecologically responsible ways of life is harmed by the power plant's discharge of toxic

pollutants and greenhouse gases, which cause global warming. This discharge will harm fish and wildlife habitat, including designated "critical areas" for fish and wildlife and wetlands. WHAS contributed to the designation of "critical areas" in the Cowlitz County Critical Areas Ordinance by nominating areas and organizing field trips to study the "critical areas." WHAS has an interest in ensuring that all "critical areas" are protected. In addition, as the local conservation organization of southwestern Washington, WHAS has a unique local perspective and expertise in this project.

Over the past seven years, RNA has dedicated thousands of hours of volunteer time to the protection and improvement of the environment and natural resources, including the Columbia River and its tributaries. RNA was instrumental in establishing a federal Sole Source Aquifer designation for the Troutdale Aquifer System, a vulnerable aquifer that supplies nearly the entirety of Clark County's drinking water. RNA has been active in ground and surface water quality monitoring throughout the region, and serves in various public venues to address migration of industrial contamination, brownfield sites, stormwater discharges and other pollutants that impact urban livability. RNA is concerned that the proposed plant will negatively impact the aquifer recharge and ground/surface water throughout the region. RNA has worked with local, state, and federal officials as an advocate for the environmental and public health. RNA is concerned that the toxic pollutants, and the greenhouse gases that contribute to global warming and acid rain, associated with the proposed coal plant will adversely impact air and water quality of the Vancouver and Clark County Metropolitan areas, where human respiratory distress and waterborne pollutants are on the rise.

As local conservation organizations, Petitioners have a unique interest in protecting water, air, and habitat quality near the proposed energy facility. If Petitioners are not allowed party status, Petitioners' ability to protect these interests would be impaired and impeded. Petitioners' unique interests are not adequately represented by the Counsel for the Environment or other potential petitioners.

III. Issues of Petitioners

Petitioners CRK, WHAS, and RNA seek to raise the following issues in the adjudicative process.

a. Water Quality

PMEC's¹ wastewater and stormwater discharge will adversely affect water quality and designated uses in the Columbia River, which conflicts with the CWA, 33 U.S.C. § 1251 *et. seq.* A National Pollutant Discharge Elimination System permit that will fully protect designated uses is required. It is inappropriate to discharge under the Port of Kalama's permit. PMEC's discharges will impair CRK, WHAS, and RNA's goals of protecting water quality.

b. Fish and Wildlife Habitat

The proposed wetland fill by the applicant and the Port of Kalama will adversely affect hydrologic and biologic values of the area. In addition, the Port of Kalama's proposed fill, for the express purpose of PMEC, will destroy a shallow backchannel of the Columbia River, which is designated critical habitat for several salmonids under the

¹ As used in this Petition, any reference to PMEC or the application includes all aspects of the proposed facility, including all structures, outfall and intake pipes, wells, railroads, and pipelines, wherever each is located.

federal Endangered Species Act (“ESA”), 16 U.S.C. § 1531 *et. seq.* EFSEC should not allow piecemeal evaluation of the impacts of PMEC.

PMEC will permanently destroy fish and wildlife habitat. The water and air discharges will adversely affect local and regional fish and wildlife populations. PMEC will also impair citizens’ enjoyment of wildlife viewing by industrializing the Columbia River near Kalama. The project is inconsistent with the ESA because it would harm threatened and endangered species. CRK, WHAS, and RNA’s efforts to protect fish and wildlife and biodiversity are impaired by PMEC.

c. Air Quality, Compliance with SB 6001 and RCW 80.70

PMEC’s discharge of greenhouse gases and toxic pollutants will adversely affect local and regional air quality. These emissions will harm fish and wildlife. The emissions will also harm CRK, WHAS, and RNA members who live in the lower Columbia River basin, including the Portland and Vancouver metropolitan areas. Petitioners will raise the issue of compliance with the Clean Air Act, 42 U.S.C. § 7401 *et. seq.*

Greenhouse gas emissions from PMEC will contribute to global warming, which will have a significant effect on the health of Columbia River basin ecosystems and water quality. Recognizing the importance of global warming on human health and ecosystems, the Washington legislature passed SB 6001, which limits the discharge of greenhouse gases. The PMEC proposal and sequestration plan do not comply with SB 6001. This is a key issue for CRK, WHAS, and RNA because each organization works to protect air quality, biodiversity, and healthy ecosystems in Washington. The air quality and ecosystems will be further degraded by global warming if SB 6001 is not

implemented properly. CRK, WHAS, and RNA have committed significant effort in ensuring that EFSEC and the Department of Ecology effectively implement SB 6001. In addition, CRK, WHAS, and RNA will raise the issue of whether PMEC and the Greenhouse Gas Reduction Plan comply with RCW 80.70.

d. State Environmental Policy Act and National Environmental Policy Act

The PMEC Draft Environmental Impact Statement ("DEIS") is incomplete and does not comply with the State Environmental Policy Act ("SEPA") in several regards, as raised in CRK's comments to EFSEC. In addition, the DEIS is incomplete because it fails to address SB 6001, the sequestration plan, and any potential offsets associated with this facility. The failure to comply with SEPA adversely affects CRK, WHAS, and RNA's interests in understanding the environmental impacts of this proposal. In addition, Petitioners will raise the issue of whether PMEC requires analysis under the National Environmental Policy Act, 42 U.S.C. § 4321 *et. seq.*

e. Local Land Use, Council Order No. 828

PMEC does not comply with Cowlitz County and City of Kalama local land use regulations, including Critical Areas Ordinances and shorelines protections. EFSEC has not analyzed compliance with relevant local land use regulations. These regulations protect fish and wildlife, wetlands, and aquifer recharge against incompatible uses. CRK and WHAS have invested considerable effort in promoting effective local land use laws in Cowlitz County and ensuring these laws are implemented and enforced. In Council Order No. 828, EFSEC relied on an invalid letter from Cowlitz County to determine incorrectly that PMEC is consistent with Cowlitz County land use laws.

f. Water Quantity

There is considerable uncertainty regarding whether the applicant can obtain valid water rights. Petitioners will raise the issue of whether P MEC has obtained valid water rights, the effect of these water rights on the Port of Kalama, the City of Kalama, private wells, local aquifers and wetlands, and the Columbia River. Also, P MEC would be located in an area designated by Cowlitz County as a "critical area" for aquifer recharge. Petitioners will raise the issue of the appropriateness of siting the facility at this location and the effect on aquifer recharge.

IV. Intervention by CRK, WHAS, and RNA Will Not Create Delay or Prejudice

Intervention by CRK, WHAS, and RNA is appropriate because it will not cause undue delay or prejudice to existing parties. To increase efficiency, CRK staff attorney, Brett VandenHeuvel, will represent CRK, WHAS, and RNA. CRK's legal counsel has experience in administrative and quasi-judicial proceedings.

CRK, WHAS, and RNA's ability to represent the interests of local members most affected by P MEC is an important factor in this petition for intervention. Far from prejudicing existing parties, we believe we are critical parties to an adequate adjudicative process.

V. Conclusion

For the foregoing reasons, the Council should grant the request by CRK, WHAS, and RNA to intervene with regard to the issues described in Section III.

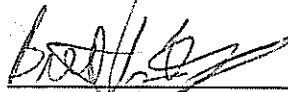
VI. Verification

Pursuant to WAC 463-30-091, the undersigned representative of CRK, WHAS, and RNA verifies that the content of this Petition for Intervention is accurate and that I

have the authority to represent each organization. See attached Declaration of Brett VandenHeuvel.

Dated September 12, 2007

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brett VandenHeuvel', is written over a horizontal line.

Brett VandenHeuvel
Staff Attorney
Columbia Riverkeeper
917 SW Oak, Suite 414
Portland, OR 97205
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In the Matter of Application No. 2006-01

ENERGY NORTHWEST

PACIFIC MOUNTAIN ENERGY CENTER
POWER PROJECT

**DECLARATION OF BRETT
VANDENHEUVEL IN SUPPORT OF
PETITION FOR INTERVENTION BY
COLUMBIA RIVERKEEPER, WILLAPA
HILLS AUBUDON SOCIETY, and
ROSEMERE NEIGHBORHOOD
ASSOCIATION**

I, Brett VandenHeuvel, hereby declare:

1. I am an authorized representative of Columbia Riverkeeper, Willapa Hills Audubon Society, and Rosemere Neighborhood Association.
2. I have reviewed the content of the Petition for Intervention and believe the contents to be true.

Dated: September 12, 2007

Respectfully submitted,

Brett VandenHeuvel
Counsel for Petitioners

Subscribed and sworn to me on this _____ day of _____.

Print Name:

Notary Public in the State of Oregon.

CERTIFICATE OF SERVICE

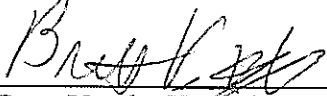
I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by depositing in first-class mail in Portland, Oregon, which is an authorized method of service pursuant to WAC 463-30-120(3).

Ted Beatty
Energy Northwest
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K & L Gates
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Michael Tribble
Assistant Attorney General
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1125 Washington St. S.E.
P.O. Box 40100
Olympia, WA 98540-0100

DATED this 12th day of September, 2007.



Brett VandenHeuvel
Staff Attorney
Columbia Riverkeeper

